

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

FABRIENNE ENGLISH,  
Plaintiff,  
v.  
APPLE INC, et al.,  
Defendants.

Case No. [3:14-cv-01619-WHO](#)

**ORDER EXTENDING THE DEADLINE  
FOR PLAINTIFF TO FILE HER  
OPPOSITION TO DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT**

Re: Dkt. Nos. 288, 290, 293, 295, 296

This matter is before the Court on Plaintiff's First and Second Motions for Extension of Time (Dkt. Nos. 290, 295), Plaintiff's Motion for Leave to File Supplementary Declaration and/or Notice of Newly Discovered Evidence (Dkt. No. 293), and Plaintiff's Motion for Leave to File John R. Parker, Jr.'s Declaration in Support of Plaintiff's Motion for an Extension of Time (Dkt. No. 296). All motions relate to Plaintiff's pending opposition to Defendants' Motion for Summary Judgment (Dkt. No. 288). The present deadline for Plaintiff to file her Opposition is October 24, 2016. *See* Dkt. No. 275.

Plaintiff requests an additional 90 days to submit her response. Dkt No. 295, 2:7. She contends that she has been unable to timely respond due to: (1) her inability to test the phone at issue because she did not know its whereabouts until October 15, 2016 (*See* Dkt. No. 296-2); and (2) outstanding discovery issues (*See* Dkt. No. 289). The phone, which has always been in plaintiff's counsel's possession, has now been found, and the parties are discussing the proper "protocol" for testing and inspecting it. *See* Dkt. No. 296-3. Additionally, defendants agreed to respond to 19 interrogatories by October 17, 2016. Dkt. No. 289, 4:11.

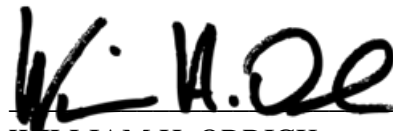
This case has been pending since November, 2013. I denied class certification in January, 2016. I gave plaintiff four weeks, rather than two, to respond to defendants' motion for summary

1 judgment. It is not at all clear to me that plaintiff lacks critical documents to respond to  
2 defendants' motion or that there is good cause to extend her briefing schedule. However, I will  
3 grant her until **October 28, 2016**, to oppose defendants' motion for summary judgment. If there is  
4 some basis to argue that plaintiff cannot present facts essential to justify her opposition, she can so  
5 move under Federal Rule of Civil Procedure 56(d) and I will consider the issue; I would suggest  
6 that plaintiff respond directly to those portions of defendants' motion for which she believes she  
7 has sufficient documentation. If she also moves under Rule 56(d), she should be sure to meet the  
8 requirements of that section, including but not limited to providing the reasons why the evidence  
9 had not been obtained earlier and how those facts will suffice to defeat the pending motion.

10 Defendants should plan to file their reply on November 23, 2016 as previously scheduled.  
11 There is ample time to complete the briefing by that date. The hearing will be held on December  
12 14, 2016.

13 **IT IS SO ORDERED.**

14 Dated: October 23, 2016

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16 WILLIAM H. ORRICK  
17 United States District Judge  
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